IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.2383 & 3496 of 2005

–

WRIT PETITION No: 2383 of 2005

Between:

Kakarla Sanjeeva Reddy, S/o. K. Subba Reddy,
Medak at Sangareddy, R/o. Sangareddy, Medak District.

..... PETITIONER

AND

1 The Government of A.P., rep. by its Principal Secretary to Govt., Revenue (Registration), Department, Secretariat, Hydeabad.
2 The Secretary, AP Public Service Commissioner, Hyderabad.
3 The Commissioner and Inspector, General of Registration & Stamps, A.P. Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records relating to the order in O.A.No.4984/2004 dt. 07.01.2005 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the same and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

WRIT PETITION No: 3496 of 2005

Between:

1 Kakarla Sanjeeva Reddy, s/o K.Subba Reddy,
Medak at Sangareddy, r/o Sangareddy, Medak District.
2 Peri Lakshminarayana, s/o P.Subba Rao,
Mahaboobnagar.
3 Kolli Siva Rama Krishna, s/o Surya Rao,
Hyderabad.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep., by its Principal Secretary to Government,
Revenue (Registration) Department, Secretariat, Hyderabad.
2 The Secretary, A.P. Public Service Commission, Hyderabad.
3 The Commissioner and Inspector General of Registration & Stamps, Andhra Pradesh, Hyderabad.
4 B.Aparna, D/o B.Krishnaiah, H.No.G-121, Madhuranagar, Yousufguda, Hyderabad-500 038.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of writ of certiorari after calling for the records relating to the order in O.A.No.3456/2004 dated 07-01-2005 on the file of the Hon'ble A.P. Administrative Tribunal, Hyderabad and quash the

same and pass such other order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner (in both writ petitions)**: MR.M.PANDURANGA RAO**

Counsel for the Respondent Nos.1 & 3 (in both writ petitions)**: GP FOR SERVICES II**

Counsel for the Respondent No.2(in both writ petitions)**: MR.M.VIJAYA KUMAR**

Counsel for the Respondent No.4: None appeared

The Court made the following:

ORAL COMMON ORDER:- (PER GB,J.)

Both the Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 07.01.2005, passed by the A.P. Administrative Tribunal in O.A.Nos.4984 and 3456 of 2004.

2. The matter relates to recruitment to the post of District Registrars vis-à-vis., the claim of the promotees. The petitioners are the promotees who are working as Assistant District Registrars and they are due for promotion to the post of District Registrars under the Rules framed in G.O.Ms.No.360 Revenue, dated 26.04.1991. The intake to the post of District Registrars is from two sources, one by direct recruitment and the other by promotion from the post of Assistant District Registrars. However, in Note (a) of Rule 3 of A.P. Registration Service Rules, it is stated that one-third number of substantive vacancies under the category of District Registrar (Category-3) shall be filled by direct recruitment. While this is the situation, the A.P. Public Service Commission issued Notification No.21/2003, dated 12.12.2003, proposing to fill up 10 (ten) posts of District Registrars under direct recruitment. Aggrieved by the said notification, the petitioners filed the aforesaid O.As.

3. The learned Tribunal, after considering the matter, dismissed the O.As. by an order dated, 07.01.2005, against which the in-service candidates have filed the present Writ Petitions.

4. Learned counsel for the petitioners contended that the ratio between direct recruits and promotees has to be maintained, and by virtue of making direct recruitment, the ratio will be disturbed, which results in violation of statutory provision under G.O.Ms.No.360. The learned Counsel also submits that the permanent cadre strength of District Registrars is 42, and therefore, the ratio to be maintained between direct recruits and promotees is one-third and two-third viz., 14 posts and 28 posts respectively. Learned counsel also submits that already 12 District Registrars are working under direct recruitment, and therefore, the posts tobe filled up under direct recruitment are two and there is no requirement for filling ten posts under direct recruitment. Therefore, the notification issued by APPSC is illegal and contrary to law.

5. On the other hand, the learned Government Pleader submits that the substantive vacancies have to be assessed, taking into consideration, the retirements, resignations, deaths etc., in respect of promotees as well as direct recruits, and therefore, taken in that view, (30) thirty vacancies became available in the category of substantive vacancies, out of which 10 (ten) vacancies were notified for direct recruitment and hence, the notification issued by APPSC cannot be said to be illegal and contrary to law.

6. The Tribunal, however, taking into consideration, the contentions of the learned counsel for the parties, held that the notification issued notifying 10 (ten) vacancies of District Registrars for direct recruits is not contrary to rules, and dismissed the O.As.

7. Learned counsel for the petitioners submits that at any given point of time, the ratio has to be maintained so as to be in conformity with the quota and ratio. The Rule in the instant case is when 42 vacancies are available on the permanent strength, the posts available to direct recruits under the ratio can be only 14 (fourteen) and that they cannot have any other posts and therefore, it cannot amount to giving excess quota to the direct recruits.

8. The issue that arises for consideration is as to the quota of filling of posts in the cadre of District Registrars.

9. It is now admitted before this Court that the permanent strength of the District Registrars is 42, and therefore, the ratio to be maintained in accordance with the Rules is 1/3rd and 2/3rd which comes to 14 and 28 posts respectively. If any vacancy arises among 14 posts under direct recruitment category, to that extent, it is for the department to fill the said vacancy by direct recruitment only. It is also open for the department to promote in-service candidates till such time the direct recruitment is made subject to the availability of vacancies, but can it be said that the direct recruitment can take place beyond the quota meant for them to the exclusion of the claims of the promotees. Rule 3 is very specific on this aspect. Even though Rule 3 is challenged, it is un-necessary and only the interpretation is made to the requirement on law. Note (a) of Rule 3 clearly reads thus:

> "one-third number of substantive vacancies in the category of District Registrars (Category-3) shall be filled by direct recruitment."

10. Under State and Subordinate Rules, under Rule-4 the method of recruitment is stipulated, and Explanation No.1 clearly postulates that notwithstanding anything contained in these rules or special or *ad hoc* rules, substantive vacancies shall mean all vacancies in the permanent cadre and all vacancies in the post which have been in existence for more than five years, and it is also stated that if special rules specify more than one method of appointment of any service shall be made under special rules indicating the class or category by different methods.

11. We are not concerned with this aspect. Only the interpretation of explanation (i) is to be taken, which if read conjointly, it leads to escapable conclusion that the permanent strength includes not only the sanctioned permanent strength, but also the posts which have been in existence for more than five years. Therefore, the clear-cut boundary is specified between the permanent posts in permanent cadre and the posts, which exists for more than five years.

12. As far as the permanent posts are concerned, it is now admitted that there are 42 posts only and the ratio of 1/3rd and 2/3rd has to be maintained between direct recruits and promotees. But, if any vacancy over and above the permanent strength exists for more than five years, the said vacancy shall have to be filled also in the ratio of 1/3rd and 2/3rd, but the posts which fall vacant in the promotees cadre cannot be clubbed in the substantive vacancy and filled up by which process the direct recruits will stand to gain more than the vacancies to which they are entitled to under the Rules. Therefore, we find that the interpretation of the provision has to in consonance with Rule-4 as quoted above. Under those circumstances we are inclined to set aside the order of Tribunal and allow the Writ Petitions.

13. Accordingly, the respondents are directed to fill up only 2 (two) posts of direct recruits with reference to the permanent cadre. However, if there are any other posts over and above the permanent cadre available for recruitment, shall fall under the substantive vacancies and those vacancies which are meant for direct recruits can also be filled up in the ratio of 1/3rd, and at the same time, the promotees also required to be promoted to the extent of 2/3rd ratio.

14. With these directions, the Writ Petitions are allowed. No costs.

_____

G. BIKSHAPATHY, J

_____

P.S. NARAYANA, J

Date: 21.03.2005

ES

To

1 The Principal Secretary, Government of A.P., Revenue (Registration), Department, Secretariat, Hydeabad.
2 The Secretary, AP Public Service Commissioner, Hyderabad.
3 The Commissioner and Inspector, General of Registration & Stamps, A.P. Hyderabad.

4 2 CCs to the G.P. for Services-II, High Court of A.P., Hyderabad (OUT).

5 2 CD copies

6 The Registrar, A.P. Administrative Tribunal, Hyderabad.